

OCT 14 2005

SIMTEK6701

IN THE UNITED STATES PATENT OFFICE

In re Application

Akira Masaoka

Atsushi Shimoishi

App. No.: 10/605843

Filed: October 30, 2003

Conf. No.: 2842

Title: KICKBACK PREVENTING
CIRCUIT FOR ENGINE

Examiner: M. Gimie

Art Unit: 3747

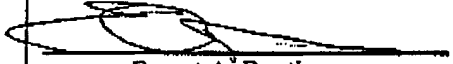
Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

I hereby certify that this correspondence and all
marked attachments are being deposited with
the United States Patent Office via fax to
(571) 273-8300 on:

October 14, 2005


Ernest A. Beutler
Reg. No. 19901PETITION TO THE COMMISSIONER

Dear Sir:

Applicants respect the Commissioner to exercise his supervisory authority and direct the Examiner to enter the amendment filed September 29, 2005 copying a claim for the purpose of an interference.

The facts leading up to this request are as follows.

In response to the Office Action, dated December 22, 2003, applicants filed an Amendment via fax on March 20, 2005. Shortly after filing that, the undersigned first noticed that a cited but not applied reference had at least one claim supported by this application. However the undersigned did not want to file such an amendment until he was certain that the first filed amendment was entered to avoid confusion and to avoid not responding to the outstanding action on the merits.

The undersigned followed the case closely in the PARE records and the receipt of the responsive amendment did not appear. Therefore the undersigned sent via fax a status letter on August 2, 2005 along with another copy of the Amendment and questioning the Examiner how to correct this situation. Again I watched the PARE records to see if the Status Letter was received. However the first thing the PARE records showed was the simultaneous entry of the prior amendment apparently on the date of receipt and also the simultaneous issuance of a Final Rejection on September 22, 2005.

Thus I filed the amendment for the purpose of Interference and clearly stated that it was not in reply to the Final Rejection. Nevertheless, the Examiner in his Advisory Action, dated October 11, 2005 treating the Amendment as a proposed response to the Final Rejection.

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It is not believed that the Rules or Statute prohibit copying a claim for the purpose of interference after the issuance of a Final Rejection. Also it is believed that the above stated facts would permit action on the amendment on its merits in the question of if an interference should be declared.

It is not believed that a fee is required by this petition, however if one is due, it will be paid immediately by Credit Card.

Respectfully submitted:



Ernest A. Beutler
Reg. No. 19901

Phone (949) 721-1182
Pacific Time